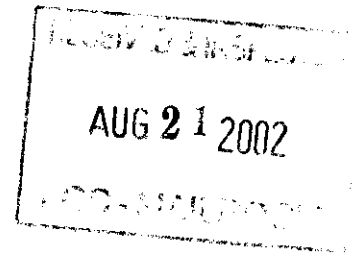


Before the  
Federal Communications Commission  
Washington, DC 20554



In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Inland Lakes Schools	)	File No. SLD-236921
Indian River, Michigan	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21 ✓
National Exchange Carrier Association, Inc.	)	

**ORDER**

**Adopted: August 8, 2002**

**Released: August 9, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Inland Lakes Schools (Inland Lakes), Indian River, Michigan.<sup>1</sup> Inland Lakes seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator), rejecting Inland Lakes' appeal on the grounds that it was untimely filed.<sup>2</sup> For the reasons set forth below, we affirm SLD's rejection and deny Inland Lakes' Request for Review.

2. SLD issued a Funding Commitment Decision Letter on November 16, 2001, denying Inland Lakes' request for discounted services under the schools and libraries universal service support mechanism.<sup>3</sup> Specifically, SLD denied Inland Lakes' request for discounts for Internet Access, Funding Request Number (FRN) 558149.<sup>4</sup> On May 29, 2002, Inland Lakes filed an appeal of SLD's decision.<sup>5</sup> On May 30, 2002, SLD issued an Administrator's Decision on

<sup>1</sup> Letter from Shawn Powers, Inland Lakes Schools, to Federal Communications Commission, filed June 28, 2002 (Request for Review).

<sup>2</sup> See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

<sup>3</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Shawn Powers, Inland Lakes Schools, dated November 16, 2001 (Funding Commitment Decision Letter).

<sup>4</sup> *Id.*

<sup>5</sup> Letter from Shawn Powers, Inland Lakes Schools, to Schools and Libraries Division, Universal Service Administrative Company, filed May 29, 2002 (Request for Administrator Review).

Appeal indicating that it would not consider Inland Lakes' appeal because it was received more than 60 days after the November 16, 2001 Funding Commitment Decision Letter was issued.<sup>6</sup> Inland Lakes subsequently filed the instant Request for Review with the Commission.

3. For requests seeking review of decisions issued on or after August 13, 2001 under section 54.720(b) of the Commission's rules, any such appeal must be filed with the Commission or SLD within 60 days of the issuance of the decision that the party seeks to have reviewed.<sup>7</sup> Documents are considered to be filed with the Commission only upon receipt.<sup>8</sup> Because Inland Lakes' Request for Administrator Review was not filed within the requisite 60-day period, we affirm the Administrator's Decision on Appeal and deny the instant Request for Review.

4. To the extent that Inland Lakes is requesting that we waive the 60-day deadline established in section 54.720(b) of the Commission's rules, we deny that request as well.<sup>9</sup> The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.<sup>10</sup> Inland Lakes has not shown good cause for the untimely filing of its initial appeal. Inland Lakes admits that its appeal was filed outside the requisite 60-day window, but explains that it did not understand what it needed to appeal until well thereafter.<sup>11</sup>

5. We conclude that Inland Lakes has not demonstrated a sufficient basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.<sup>12</sup> In requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities. The applicant bears the burden of submitting its appeal to SLD within the established deadline if the applicant wishes its appeal to be considered on the merits. The November 16, 2001 Funding Commitment Decision Letter clearly states that "your appeal must be ... RECEIVED BY THE SCHOOLS AND LIBRARIES DIVISION (SLD) ... WITHIN 30 DAYS OF THE ... DATE ON [THE FUNDING COMMITMENT DECISION LETTER]."<sup>13</sup>

6. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. We have consistently held that general applicant

---

<sup>6</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Shawn Powers, Inland Lakes Schools, dated May 30, 2002 (Administrator's Decision on Appeal).

<sup>7</sup> 47 C.F.R. § 54.720(b). *See Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, FCC 01-376 (rel. Dec. 26, 2001), as corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. Dec. 28, 2001 and Jan. 4, 2002).

<sup>8</sup> 47 C.F.R. § 1.7.

<sup>9</sup> *See* 47 C.F.R. § 54.720(b).

<sup>10</sup> *See* 47 C.F.R. § 1.3.

<sup>11</sup> Request for Review at 1.

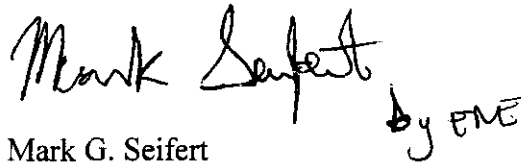
<sup>12</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>13</sup> Funding Commitment Decision Letter at 2. In fact, Inland Lakes was subject to the 60-day appeal period, as discussed above. *See supra* para. 3. Inland Lakes' appeal also failed to comply with the 60-day period.

confusion does not constitute grounds for waiver of the deadline for filing an appeal with SLD.<sup>14</sup> In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of adhering strictly to its filing deadlines.<sup>15</sup> In order for the program to work efficiently, the applicant must assume responsibility for timely submission of its appeal to SLD if it wishes its appeal to be considered on the merits. Here, Inland Lakes fails to present good cause as to why it could not timely file its appeal to SLD. We therefore find no basis for waiving the appeal filing deadline.

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Request for Review filed by Inland Lakes Schools, Indian River, Michigan, on June 28, 2002, and the request to waive the 60-day time limit in which to file an appeal ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink that reads "Mark Seifert". To the right of the signature, the letters "by ENE" are handwritten.

Mark G. Seifert  
Deputy Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau

<sup>14</sup> See, e.g., *Request for Review by E-Rate Central, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File Nos. SLD-33699, 84909, 1275, 84495, 13397, CC Docket Nos. 96-45 and 97-21, Order, DA 01-2137 (Comm. Car. Bur. rel. September 14, 2001).

<sup>15</sup> See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Comm. Car. Bur. rel. November 24, 2000), para. 8 ("In light of the thousands of applications that SLD reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.").